

GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT

Sugar Department – Private Sugar Factories - Orders of Hon'ble High Court of Andhra Pradesh in W.P.No.3771 of 2012 Dt:27.08.2012 – Appeal petitions of Sri N. Ashok and M/s Ganpati Sugars Limited, Sangareddy – Orders – Issued.

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INDUSTRIES & COMMERCE (SUGAR) DEPARTMENT

G.O.Ms.No. 31

Dated: 09.04.2013

Read the followings:

- 1) G.O.Rt.No.653, Ind. & Com.(Sug) Dept. Dt:18.11.2011.
- 2) WPMP No.4739 of 2012 in W.P.No.3771 of 2012 filed by M/s Ganpati Sugars Ltd., Sangareddy Dt:14.02.2012.
- 3) Orders of Hon'ble High Court in W.P.No.3771/ of 2012 Dt:27.08.2012.
- 4) Appeal of Sri N. Ashok, Dt:28.09.2012.
- 5) Govt. Lr.No.3748/Sug/A1/2012, dt:22.11.2012 addressed to the CoS&CC.
- 6) Govt. Lr.No.3748/Sug/A1/2012, dt:22.11.2012 addressed to Sri N. Ashok and M/s Ganpati Sugars Limited, Sangareddy.
- 7) From the CoS&CC, Lr.No.C1/4054/2008, Dt:27.11.2012.
- 8) Govt. Lr.No.3748/Sug/A1/2012, dt:12.12.2012 &20.12.2012.
- 9) From DGM (Comml.), M/s Ganpati Sugars Ltd., Sangareddy Letter No.GSIL/SRD/2012-2013, Dt:31.12.2012.

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ORDER:

In the reference 1<sup>st</sup> read above, the Government have issued orders rejecting the appeal petition filed by M/s. Ganpati Sugars Ltd., Sangareddy with holding the orders issued by the Commissioner of Sugar & Cane Commissioner, AP, Hyderabad vide Proceedings Dt:18.04.2012 regarding the payment of compensation Rs.48,955/- along with interest @15% per annum from 27.05.2008 to till the final payment is made to the cane grower. Aggrieved by the orders issued in the reference 1<sup>st</sup> read above, M/s. Ganpati Sugars Ltd. have filed W.P.No.3771/2012 on the file of Hon'ble High Court of Andhra Pradesh. The Hon'ble High Court in their orders dt.27.08.2012 in W.P. No.3771/2012, have passed orders setting aside the orders issued in G.O.Rt.No.653, Industries & Commerce (sugar) Department, Dt.18.11.2011 and directed the first respondent i.e. Govt. of Andhra Pradesh, represented by the Principal Secretary to Government, Industries & Commerce (Sugar) Department, to take appropriate decision duly considering the grounds raised by the petitioner in the appeal and also after affording opportunity to both parties, with in a period of eight weeks from the date of receipt of the order.

2. In the reference 4<sup>th</sup> read above while enclosing a copy of judgement of Hon'ble High Court of AP, Dt:27.08.2012 in W.P.No.3771/2012, Sri N. Ashok, cane grower has filed appeal before the Govt. to consider his representation and requested to dismiss the appeal filed by M/s Ganpati Sugars, by confirming the award passed by the Commissioner of Sugar & Cane Commissioner in the proceedings Dt:18.04.2010.

3. Accordingly, the Government vide reference 5<sup>th</sup> read above, has called for the entire records pertaining to the case. The Commissioner of Sugar & Cane Commissioner vide reference 7<sup>th</sup> read above has furnished the entire records to the Government. The Government vide reference 6<sup>th</sup> and 8<sup>th</sup> read above have called the both parties for hearing their case.

4. The contentions of the both the parties on their personal appearance filed before the Govt. on 31.12.2012 is brought on record as here under:

CONTENTION OF SRI N. ASHOK, CANE GROWER:

5. Sri N. Ashok, while referring the judgement of the Hon'ble High Court of AP No.3771 of 2012, Dt.27.08.2012, wherein the Hon'ble High Court remanded the case to Govt. for fresh disposal on the appeal filed by M/s. Ganapati Sugars questioning the award passed by the Commissioner of Sugar, A.P., Hyderabad vide Commissioner of Sugar & Cane Commissioner Lr.Rc.No.C1/4054/08, dt:18.4.2010 and appeal filed by M/s. Ganapati Sugars Ltd., Dt:12.05.2010 respectively. The Hon'ble High Court observed that, the Commissioner of Sugars being the Original Authority, the comments should not have been called from the Commissioner of Sugars, except the original records from their office and the Government should have passed independently without influenced by the orders passed by the Commissioner of Sugars.

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6. In this regard Sri N. Ashok, submitted that he is an agriculturist having total extent of Ac.12-07 guntas of agricultural land in Erraram Village, Andole Mandal, Medak District. As per Section 15 of the A.P Sugarcane (Regulation of Supply & Purchase) Act, 1961, his lands are allotted under the allotment of Zone to M/s. Ganpati Sugars Ltd.,, Fasalwadi/ Kulabgur, Sanga Reddy, Medak District by declaring under section 16(2) of the said Act. Accordingly, he has to necessarily supply the Sugarcane grown in his field to M/s Ganapati Sugars and he can not sell his Sugarcane in the open market. Therefore, the A.P Sugarcane (Regulation of Supply & Purchase) Act, 1961 is safeguarded to the Agriculturists in order to get good price to their Sugarcane growers in their fields and other safeguarded are provided. Therefore, A.P Sugarcane (Regulation of Supply & Purchase) Act, 1961 is a beneficial legislation to the Farmers than to the Sugar Industries.

7. Accordingly, Sri N. Ashok has entered into agreement with M/s. Ganapati Sugar Industries Ltd., for the purpose of supply of Sugarcane to them at the price fixed by the Government. But, M/s. Ganapati Sugars have not taken delivery of sugarcane grown by him inspite of his requests nor issued any transit permits for supply of Sugarcane to their factory which is evident from the record. On the other hand, they have issued only one transit permit and he could supply the Sugarcane to the factory to an extent of 18 Metric Tones as against agreed quantity of 120 M. Tones. He has made several representations to M/s. Ganapati Sugar Industries, but they did not care to take delivery of his sugarcane crop in time and due to which his sugarcane was dried up and due to which some miscreant thieves have burnt down his sugarcane crop in his absence and thus he has sustained huge financial loss. He lodged a criminal complaint against those culprits before the Mandal Revenue Officer, Andole and also to the Police Station concerned on 31.05.2008, but so far no action has been taken till date.

8. Therefore, he has constrained to issue legal notice to M/s. Ganapati Sugar Industries, Fasalwadi / Gulabgur, Sanga Reddy, Medak District on 02.06.2008 and marked a copy to the Commissioner of Sugar & Cane Commissioner requesting to take necessary legal action against the said Sugar Factory. But, the Commissioner of Sugar & Cane Commissioner failed to take any such action till date.

9. Sri N Ashok has informed that he constrained to file W.P.No.13982/2008 before the Hon'ble High Court of Andhra Pradesh, Hyderabad, on 30.6.2008. The Hon'ble High Court was pleased to admit the above writ petition and directed to post the WPMP immediate after service of notices on the respondents and he was permitted to take out personal notices on both the respondents. Accordingly, his counsel has sent personal notices on both the Respondents. But, the Commissioner of Sugars failed to respond to the said notice nor filed any counter till date. M/s. Ganpati Sugar Industries have filed their formal counter denying all his contentions.

10. Sri N. Ashok has informed that as per contention of M/s Ganapati Sugars Ltd., the permits said to be issued to him are not tallied which are said to be issued either on his name in respect of his lands, which are said to be issued on different persons' name not connected to him at all. Moreover, the payment of sugarcane crop paid to him by M/s. Ganpati Sugar Industries belonging to one Tractor load of Sugarcane crop only and that too, paid through the Bank for Rs.5,157/- only after filing of his writ petition in the Hon'ble High Court. Thus, M/s. Ganpati Sugar Industries has to pay the price of his sugarcane crop to the extent of Sugarcane supplied by him, apart from payment of damages sustained by him due to non-taking delivery of his sugarcane crop to the extent of approximately 100 Metric Tones of Sugarcane crop which can be calculated at Rs.3,00,000 (Rupees three lakhs only) with interest at 24% per annum on such amount payable from the 1<sup>st</sup> May, 2008 to till the date of payment. The other contention of M/s. Ganapati Sugar Industries is that they seems to have issued News Paper Publications on 13.04.2008 in Eenadu in Telugu of Medak District edition, when his detailed address is given as resident of Chandanagar, Hyderabad both in their agreement as well as in all his correspondence made with M/s. Ganpati Sugar Industries. Thus, M/s Ganapati Sugar Industries are misleading both himself and also the Hon'ble High Court. Therefore, the said News Paper publication is non-nest in the eye of Law and also not proper notice to him at all.

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11. Therefore, the Hon'ble High Court was not inclined to go into all disputed question of facts. Accordingly, disposed of the above writ petition on 02.12.2008 directing the Commissioner of Sugars, to consider his representation and after giving due notice and opportunity to both sides and also for personal hearing, and he is directed to pass necessary orders as per Law within a period of eight weeks from the date of receipt of the said order copy. After, prolonged adjournments by M/s. Ganpati Sugars, the Commissioner of Sugars was pleased to pass award above vide his Lr. Dt:18.04.2010, awarding meager compensation of Rs.48,955/- against his claim of Rs.3,00,000/-. However, he has stated that he confined the said amount in order to save the time. But, M/s. Ganpati Sugars questioning the same, have filed appeal before the Government and after prolonged hearings, the said appeal was dismissed by the Government. Instead of paying the said meager compensation to cane grower, M/s. Ganpati Sugars have filed W.P.No.3771/2012 before the Hon'ble High Court of AP, Hyderabad. The Hon'ble High Court merely on technical grounds, allowed the said W.P. vide judgement Dt:27.08.2012, in W.P.No.3771/2012 directing the Govt. to pass independent orders without reference to the remarks submitted by the Commissioner of Sugars and after hearing both sides and after giving opportunity to both parties to pass final orders within eight weeks.

12. In the circumstances submitted above, the petitioner Sri N. Ashok has requested to consider his representation in terms of the orders passed by the Hon'ble High Court of A.P., in W.P.No.3771/2012, dt.27.08.2012 and to dismiss the appeal filed by M/s. Ganpati Sugars by confirming the award passed by the Commissioner of Sugar & Cane Commissioner independently without reference to the comments submitted by the Commissioner of Sugar & Cane Commissioner within time as prescribed by the Hon'ble High Court of A.P., Hyderabad in W.P.No.3771/2012, dt.27.08.2012 and to pass such other order or orders which are deem fit and just.

CONTENSION OF M/S. GANPATHI SUGARS LTD.:

13. M/s. Ganpati Sugars Ltd., in their letter Dt:31/12/2012 has represented as follows:

14. M/s. Ganpati Sugars Ltd., while enclosing a copy of the previous letters, Dt.02.02.2009; and Dt.12.05.2012, have informed that with regard to the Writ Petition filed in the matter, they have already filed all relevant material to explain the case and requested to consider their appeal for repeal and cancellation of the order issued earlier, in the interest of equity, justice and good conscience.

15. M/s. Ganpati Sugars Ltd., in their representation Dt: 02.02.2009 addressed to the Commissioner of Sugar & Cane Commissioner, AP, Hyderabad has informed that Sri Namala Ashok S/o Yadagiri aged 41 years having agricultural lands at Erraram village, Andole Mandal, factory ryot code No.A4090180 has planted an area of 1.48 ha, in 48,151,162/A,E Sy.No's on 15.12.2006 and contracted to their factory on 03.07.2007 for supply of cane during 2007-08 crushing season to be delivered at factory gate as per the agreement entered.

16. M/s. Ganpati Sugars Ltd has informed that the permits were issued to the growers, strictly following planting date, zonal cane availability, plants crushing capacity, schedule fixed for daily requirement etc. From January 08 onwards factory was after Sri Namala Ashok to harvest and supply his cane to factory which he never bothered. After seeing his attitude, they have issued 3 cane harvesting permits bearing Nos. 0146826, 0146827 and 0147349 for supply of cane on 14.4.2008, 15.04.2008 and 16.4.2008 respectively in the name of Sri Namala Ashok and handed over the same to Sri R. Shivachander Reddy who is the representative of the petitioner and also obtained his acknowledgement. As against the above three permits the petitioner has honored only one permit bearing no.0146826, Dt:14.04.2008 and supplied a quantity of 8.242 MT of cane on 18.5.2008. They have issued some more permits through certificate of posting during 1<sup>st</sup> of May, 2008. An advertisement in EENADU, Medak District Edition was published on 13.04.2008 about the closure of factory some where about 10.05.2008 requesting the farmers to supply the cane and also made it clear in default of supplying the same, the factory will not be held responsible. It is pertinent to mention here that after repeated requests from the various farmers, the time for crushing operation was extended till 27.05.2008 and it is duly informed to all the growers.

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17. The petitioner claim of payment of Rs.38,000/- towards the cost of 18 MT has no validity since the petitioner has supplied only 8,242 MT for which the company has already credited an amount of Rs.5,652/- and Rs.801/- to petitioners' A/c No.6987 in AP Grameena Vikas Bank, Jogipet Branch on 16.6.2008 and 09.9.2008 respectively being the cost of the cane supplied.

18. M/s. Ganpati Sugars Ltd. has further informed that they have not violated any of the provisions of AP Sugar Cane (Regulation of Supply & Purchase) Act, 196. The petitioner with an ill motive has made false statements for the purpose of gain indirectly suppressing the factual aspects, claiming damages of Rs.3,00,000/- apart from a claim for Rs.38,000/- towards the cane alleged to have been supplied.

19. The petitioner Sri N. Ashok misconceived the facts and it is the petitioner as per the agreement who undertake to supply sugarcane crop at factory gate. The contentions of the petitioner that they have agreed to send the tractors for the delivery of the sugarcane crop from petitioners field is contrary to the agreement entered as per rule 20 of the AP Sugarcane (Regulation of Supply and Purchase) Rules, 1961.

20. M/s. Ganpati Sugars Ltd. has also stated that, it may not be out of place to mention here that as could be seen from the statement of this ryot that he had supplied 18 tones as against the actual quantity of 8.242 tones which proves to be a false statement.

21. The question that Government has to consider is whether M/s. Ganpati Sugars has violated any terms of the agreement entered into with Sri N. Ashok and have violated any of the requirements of AP Sugarcane (Regulation of Supply and Purchase) Rules, 1961.

22. Government have reviewed the arguments of both the parties and also the documents submitted by both the parties to the Commissioner of Sugar & Cane Commissioner, the documents filed in the High Court in WP No. 13982 of 2008 and the documents filed before the Government. The following findings emerge:

- i) According to the second part of Para 1 of the agreement between the Cane growers and Sugar factory referred to by Sri Ashok and M/s Ganapati Sugars, the cane grower has to supply cane at the factory gate or at the Company notified purchase center based on the requisition slips (harvesting permits) issued by the Sugar factory on the specified dates. It is not true that the Sugar Factory has to pick up the cane from the farm site of the grower.
- ii) When Sri Ashok filed WP No. 13982 of 2008 in the High Court, certain documents were filed along with this WP. A review of these documents shows that three permits issued by M/s Ganapati Sugars, bearing Nos. 0146826, 0146827 and 0147349 for supply of cane on 14.4.2008, 15.4.2008 and 16.4.2008 respectively were issued in the name of Sri Namala Ashok. These three permits were marked as Ex P5, Ex P6 and Ex P7. These three permits were filed as Exhibits in the WP No. 13982 of 2008 in the High Court by Sri N. Ashok himself. Thus it is not true to state that only one permit was issued when there is documentary evidence to show that 3 permits were issued.
- iii) In the same WP No. 13982 of 2008 in the High Court, Ex P8 is the cane weighment receipt (Cheruku tookamu raseedu) No. 0108957 issued by M/s Ganapati Sugars, in the name of Sri Namala Ashok s/o Yadagiri. The weight of cane supplied according to this receipt is 8242 kgs (or 8.242 MTs). In his contention before Government, Sri N. Ashok has stated that he could supply the Sugarcane to the factory to an extent of 18 Metric tons but payment was made only for 8.242 MTs. However, no documentary evidence was produced by him to show any receipts or other proof to show that he had actually delivered 18 MTs of cane to the factory. Therefore, based on the documentary evidence filed as ExP8 in WP No. 13982 of 2008 in the High Court, it appears that the actual quantity of cane supplied was 8.242 MTs and not 18 MTs. This quantity was supplied against one permit and no cane was supplied by Sri N. Ashok against the other 2 permits. There is also documentary evidence by way of banking statements to show that payment an amount of Rs.5,652/- and Rs.801/- to petitioners' A/c No.6987 in AP Grameena Vikas Bank, Jogipet Branch on 16.6.2008 and 09.9.2008 respectively being the cost of the cane actually supplied.

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- iv) From the record it can be seen that the three (3) permits were issued to the petitioner on 12.4.2008 to supply cane on 14.4.2008, 15.4.2008 and 16.4.2008 respectively. From the Ex P8 (in WP No. 13982 of 2008 in the High Court), the cane weighment receipt (cheruku tookamu raseedu) No. 0108957, it is evident that Sri N. Ashok supplied 8.242 MTs of cane on 18.5.2008 against 1<sup>st</sup> permit dt.14.4.2008 after a gap of more than one month.
- v) According to the agreement signed between the grower and the factory signed by Sri Ashok on 3/7/2007 (also filed as Ex P1 in WP No. 13982 of 2008 in the High Court), the address of Sri Ashok is given as Erraram Village, Andole Mandal, Medak District. In the Receipt of Cane Contract Agreement (also filed as Ex P2 in WP No. 13982 of 2008 in the High Court), the address of Sri N. Ashok is given as Erraram Village, Andole Mandal, Medak District. In the three permits issued by the factory to Sri Ashok, the address of Sri Ashok is given as Erraram Village, Andole Mandal, Medak District. Sri Ashok has not produced any documentary evidence to show that he had intimated to M/s Ganapati Sugars that he had changed his address to Chanda Nagar in RR District. Thus for the purposes of this case, the address of Sri N. Ashok has to be taken as Erraram Village, Andole Mandal, Medak District.
- vi) M/s. Ganpati Sugars has stated that they sent a number of permits to the address of Sri Ashok and they all came back as undeliverable. In total, on 22 cane harvesting requisitions slips were reportedly issued by M/s. Ganpati Sugar Industries Ltd., to the farmer, on specified dates. Evidence has been produced to show that at least one letter sent under certificate of posting to Sri N Ashok at Erraram Village, Andole Mandal, Medak District was returned to sender. Thus there is some evidence to show that M/s. Ganpati Sugars tried to contact Sri N. Ashok but there is no documentary evidence to show that Sri N. Ashok made any effort to contact the M/s. Ganpati Sugars to find out about his sugarcane supply to the factory. No evidence has been produced to show that Sri N Ashok made any efforts to contact the Assistant Cane Commissioner if he felt that M/s. Ganpati Sugars was not taking his sugar cane in violation of the agreement. It also appears that M/s Ganapati Sugars did not crush to full capacity during the year and also extended crushing period on the request of other growers. There does not seem to be any reason for M/s Ganapati Sugars to deliberately not procure the cane of Sri N. Ashok alone when they procured cane from even outside the reserved zone of the factory by extending the crushing period. The Commissioner of Sugar & Cane Commissioner in his order Lr.Rc.No.C1/4054/08 dated 18/4/2010 has also agreed that the cane grower failed to supply cane as per the requisitions made by the factory in specified dates.
- vii) There is the issue about intimation of closure of crushing operations and whether such intimation was made to Sri Ashok. M/s Ganapati Sugars has stated that they issued an advertisement in the "Eenadu" newspaper dated 12.4.2008 where it was clearly mentioned that the factory was going to be closed on 10.5.2008 and requested the cane growers to harvest and supply cane to the factory. Eenadu is one of the largest circulated newspapers in Andhra Pradesh and public announcement by way of a newspaper notification is an accepted method, even by the High Courts. It appears that this notification was published in both the Medak and Ranga Reddy District editions of Eenadu. This covers the given address of Sri Ashok at Erraram Village, Andole Mandal, Medak District and the other residence in Chanda Nagar of RR District. In fact, Sri N Ashok supplied cane to the factory only on 18.5.2008 against 1<sup>st</sup> permit dated 14.04.2008, a date beyond the original date of closure of the factory. If Sri N. Ashok was not aware of the newspaper notification there would not have been any reason for him to supply cane on 18.5.2008 when, according to the original date, the factory would have been closed. Thus it cannot be said that M/s. Ganpati Sugars did not make reasonable effort to notify the closure of the crushing season.

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- viii) Sri N Ashok has alleged that some miscreants burnt the cane in his fields on 30.5.2008, and that he also has lodged complaints at the Police Station and MRO at Andole. However, as pointed out by M/s. Ganpati Sugars, he has not informed of this incident to the concerned authorities of the Sugar Department, namely, the Assistant Cane Commissioner, whose office is situated at Sangareddy in the same Medak District.
- ix) The only reason cited in the order by the Commissioner of Sugar and Cane Commissioner Lr.Rc.No.C1/4054/08 dated 18/4/2010 awarding compensation was that M/s. Ganpati Sugars Ltd had not made adequate efforts to contact the grower and there was negligence on the part of the factory. Any decision made by the Commissioner of Sugar & Cane Commissioner has to be supported by the provisions of the AP Sugar Cane (Regulation of Supply & Purchase) Act, 1961. The argument made by the Commissioner of Sugar & Cane Commissioner in his order Lr.Rc.No.C1/4054/08 dated 18/4/2010 does not refer to violations of any conditions of the AP Sugar Cane (Regulation of Supply & Purchase) Act, 1961. Besides, the supply of cane by the grower to the factory is governed by the agreement entered into between the cane grower and the factory. No violation of this agreement has been established.

23. After careful examination of the documentary evidence and the written arguments put forth by Sri N. Ashok and M/s. Ganpati Sugars Limited and for the reasons stated in points (i) to (ix) above, Government hereby accept the plea of M/s Ganpati Sugars Limited (I) that they have not violated any of the provisions of AP Sugar Cane (Regulation of Supply & Purchase) Act, 1961; (II) No negligence on the part of M/s. Ganpati Sugars Limited is established; (III) No violation of any terms of the agreement entered into between Sri N. Ashok and M/s. Ganpati Sugars Limited has been established; (IV) No violation of any of the requirements of AP Sugarcane (Regulation of Supply and Purchase) Rules, 1961 has been established. Therefore, under Section 20 of the Andhra Pradesh Sugars (Regulation of Supply and Purchase) Act of 1961, Government allow the appeal of M/s. Ganpati Sugars Limited, duly dismissing the appeal petition of Sri N. Ashok, cane grower and the orders of the Commissioner of Sugar & Cane Commissioner issued in Letter Rc.No.C1/4054/08 dated 18/04/2010 are set aside in supersession of orders issued in the reference 1<sup>st</sup> read above.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

K. PRADEEP CHANDRA  
PRINCIPAL SECRETARY TO GOVERNMENT &  
COMMISSIONER FOR INDUSTRIAL PROMOTION

To  
Sri N. Ashok, cane grower, S/o Late Yadagiri,  
Flat No.303, RR Residency, Chandanagar, Hyderabad - 050.  
M/s Ganpati Sugars Ltd., Kulbgoor / Fasalwadi village, Sangareddy,  
Medak Dist. 502294.

Copy to:

The Commissioner of Sugar & Cane Commissioner, AP, Hyderabad.  
The Government Pleader for Industries, AP, High Court, Hyderabad.

// FORWARDED :: BY ORDER //

SECTION OFFICER